on the part of the accused at the time of the commission of the alleged crime. 7 AM. & ENG. ENCYC. LAW, Ed. 1, p. 61. In trials for uttering counterfeit coins evidence of the utterance of similar coins to other persons at previous times is admitted. *State* v. *McAllister*, 24 Me. 139; *Reed* v. *State*, 15 Ohio 217; *Commonwealth* v. *Bigelow*, 49 Mass. 235. And in trials for forgery, evidence of the passage of similar forged papers by the defendant is admissible to prove guilty knowledge. *Commonwealth* v. *Miller*, 57 Mass. 243; *Steele* v. *People*, 45 Ill. 152. In *Reg.* v. *Oddy*, 5 Cox C. C. 210, the court stated that the rule regarding the admission of such evidence in counterfeiting cases went a great way and was not to be applied to the criminal law generally, and in the decision in *People* v. *Corbin*, 56 N. Y. 363, it is stated that the cases in which offenses other than those charged in the indictment may be proved for the purpose of showing guilty knowledge or intent are very few. A leading case is *State* v. *Lapage*, 57 N. H. 245. Here on a trial for murder the prosecution sought to show that the crime was committed in perpetrating or attempting to perpetrate rape. Evidence was admitted that the defendant had committed rape in Canada, some years before, under similar circumstances. Although the trial judge in his charge to the jury carefully limited the evidence to the proof of a criminal intent, the higher court held that the evidence was inadmissible. It was held in *Commonwealth* v. *Coe*, 115 Mass. 481, and *Commonwealth* v. *Jackson*, 132 Mass. 16, both prosecutions for cheating by false pretences, that evidence of other similar false pretences was not admissible, though it was recognized that there are occasions when evidence of one crime should be admitted on the trial of another. On the other hand, cases have gone to great lengths in admitting such testimony. At a trial of a mother for murdering her child by poison, evidence was admitted that two other children of her's and a lodger had previously died by poison. *Reg.* v. *Cotton*, 12 Cox C. C. 400. At a trial for murdering her child by suffocation, evidence was received tending to show the previous death of her other children at early ages. *Reg.* v. *Roden*, 12 Cox C. C. 630. And in *Reg.* v. *Garner*, 3 F. & F. 681, where the charge was murder of the mother by poison, evidence was received that his first wife died of poison. In *People* v. *Seaman*, 107 Mich. 348, the question under discussion was considered at some length. The charge was manslaughter for committing an abortion. It was held that evidence that the defendant had performed other abortions in the same house was admissible to repel the inference that the cause was accidental and to show motive. Numerous cases are cited in support of this view. Whatever may be the weight of authority, it is evident that, since such evidence must tend to prejudice the jury to some extent at least, it should be admitted only with great caution.

EVIDENCE—PROFERT OF A PERSON.—In a criminal prosecution of a negro for adultery with an alleged white woman, *held* permissible for the state to make profert of the woman to the jury in order that they might determine whether or not she was a white woman. *Jones* v. *State* (1908), — Ala. —, 47 South. 100.

The use of the term "profert" in this connection is peculiar and extremely rare, as it is used ordinarily only in connection with written instruments. However, there is no good reason why it should be confined to any particular class of objects. Although the question involved in this case has not often arisen, still it is not a new one. The present case follows the decision in *Linton* v. *State*, 88 Ala. 216, in which almost precisely the same facts were involved. In other cases where a person's color was material, the jury have been allowed to determine, by inspection, whether the person in question was a negro or a white person. *Garvin* v. *State*, 52 Miss. 207; *Warlick* v. *White*, 76 N. C. 175; *Gentry* v. *McMinnis*, 3 Dana (Ky.) 382; *Hook* v. *Pagee*, 2 Munf. 379. There is no good reason, apparently, why such evidence should be excluded from the jury.

GUARANTY—SURETY FOR TENANT—ASSIGNMENT OF LEASE—LIABILITY OF GUARANTOR.—Plaintiffs leased to one H. certain property for ten years, the rent payable monthly. There was to be no assignment "except * * * to a corporation consisting mainly of himself (H.), and his associates in business." Defendant's testator, at the time of making the lease, agreed by a writing under the same cover with the plaintiffs, "their successors and assigns, that if default * * * should be made by the said H. on the payment of the rent, or the performance of any covenant," to pay the said rent. The lease was assigned before the beginning of the term by H. to a corporation as provided, and default made by the corporation. In an action on the guaranty, *held*, that the guarantor was not liable for the default of the corporation. *Smith et al.* v. *Ottman* (1908), 111 N. Y. Supp. 912.

The court divides three to two on the question involved in this case, the disagreement being due to an insistence by the minority that the case of *Morgan* v. *Smith*, 70 N. Y. 537, is in point and decisive. It is claimed that *Morgan* v. *Smith* holds that when there is a provision in the lease for assignment, the lease and guaranty must be read together and the guarantor held to assent to the assignment. The facts in that case, however, were that the original lessee still remained liable by express contract for the rent after the assignment, and the case held the guarantor, despite the assignment which was authorized in the lease, liable, not for the default of the assignee, but for that of the original lessee. That the mere assignment, when the assignor still remains liable for the rent, does not discharge his guarantor, is well settled. *Smith* v. *Morgan*, supra; *Grommes* v. *St. Paul Trust Co.*, 147 Ill. 634; *Oswald* v. *Fratenburgh*, 36 Minn. 270. And the mere consent to the assignment and the acceptance of rent from the assignee will not operate as a surrender, discharging the assignor from liability on his covenants. 24 Cyc., p. 1372; *Ranger* v. *Bacon*, 3 Misc. (N. Y.) 95. The majority point out that *Morgan* v. *Smith*, supra, has no application to the case under consideration. It is a far different thing to hold the guarantor liable for the default of the assignor after an assignment than to hold him liable for the default of the assignee. Beyond question H., in the principal case, was released from liability for rent by the assignment.